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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,888	03/05/2002	Hans Ulrich Stauber	FRR-12920	8221

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EXAMINER

HAUGLAND, SCOTT J

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,888

Applicant(s)

STAUBER, HANS ULRICH

Examiner

Scott Haugland

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/1/04 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Herrmann (U.S. Patent No. 6,264,133).

Herrmann discloses an installation for intermediate storage of flat articles comprising primary transport paths (extending in the Y direction parallel to rails 22 in Fig. 5), a secondary transport path (extending in the X direction in Fig. 5), stations W for establishing and dissolving storage formations of the articles, mobile supporting elements 3, 3', storage spaces L for the supporting elements, a positioning device (20,

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21, and associated structure for supporting and driving them along rails 22) for transporting the supporting elements along the primary paths, and an orienting device (22 and associated mechanism for orienting and driving in the X direction).

The positioning device (21, etc.) and the orienting device are operable independently of each other. The state (on or off) of the drive of one does not depend on the state of the drive of the other. The orienting device transports the positioning device along only the secondary transport path (in the X direction) and not along the primary transport paths. The structure that transports the supporting elements along the primary paths is part of the positioning device.

Response to Arguments

Applicant's arguments filed 7/1/04 have been fully considered but they are not persuasive.

Applicant argues that Herrmann does not disclose predefined, stationary paths for transporting the positioning device and the orienting device. However, the claimed paths are not limited to any particular physical structure. The space through which an article may move meets the claimed "path" limitations. With regard to claim 4, it is noted that Herrmann discloses guide means (associated with rails 22) along which the positioning device moves as required by the claim.

Applicant argues that trolley 20 and column 21 of Herrmann perform both the functions of reorienting the roll support and positioning the roll support and that Herrmann cannot be interpreted as having a positioning device (20, 21 and associated

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structure for supporting and driving them along rails 22) and an orienting device (22 and associated mechanism for orienting and driving in the X direction).

However, since the trolley 20 of Herrmann can be rotated, moved in the Y direction, and moved in the X direction separately or independently, it is clear that the same components or devices are not responsible for each motion. The claimed positioning device reads on the components responsible for motion in the Y direction (in Fig. 5) along primary transport paths. The claimed orienting device reads on the components responsible for motion in the X direction and for rotation of the column 21 (note col. 6, lines 3-9). Trolley 20, column 21, and the associated Y-direction driving mechanism of Herrmann correspond to the claimed positioning device. If the trolley 20 and column 21 were considered to reorient the roll support due to their rotation relative to beam 22 (by the rotating mechanism which is part of the orienting device), then, by the same reasoning, Applicant's positioning device 5 could be considered to reorient roll stands 2 due to rotation of the positioning device (by the orienting device 6).

Applicant argues that the language "at least one orienting device (6, 6') for transporting the at least one positioning device along only the at least one secondary transport path (4) and for changing an orientation thereof" requires a positioning device and an orienting device that are discrete and separate from each other which is not shown by Herrmann. However, as noted above, Herrmann has separate positioning and orienting devices and the orienting device transports the positioning device along only the secondary transport path. Clearly, the device that drives beam 22 in the X direction does not transport roll supports 3, 3' along the primary transport paths (in the Y

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direction) and the device that rotates the column 21 and drives it along the beam 22 in the Y direction does not transport the column in the X direction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (703) 305-6498. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


sjh
11/4/04


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